SUMMARY

OF THE REPORT

ON THE

SPOUSE IN THE HOUSE RULE

SUMMARY

OF THE REPORT

ON THE

SPOUSE IN THE HOUSE RULE

BACKGROUND

In September 1986, the provincial government announced that it was going to change a controversial set of rules that had been a key feature of Ontario's social assistance programs.

The spouse in the house rule, as it is known, resulted in social assistance benefits being automatically cut off from sole-support parents who began to live with someone of the opposite sex.

The spouse in the house rule has recently come under a great deal of criticism.

In order to apply the rules, officials had to enquire about the personal and sexual relationships of sole-support parents on assistance. Many people considered this to be an unwarranted invasion of privacy. In effect, the rule applied almost exclusively to single mothers. As a result, it was felt to discriminate against women. Finally, the rule seemed to be based on the outdated notion that women are and should be financially dependent upon men. Criticism of the spouse in the house rule reached the point that court cases were launched citing the Charter of Rights in order to challenge the legality of the rule.

Recognizing the need for change, the government promised an end to the spouse in the house rule by April 1, 1987. The government believes, however, that there still must be some restrictions on social assistance benefits provided to single parents when they share accommodation with others. The Social Assistance Review Committee was asked to advise the government on its new policy designed to replace the spouse in the house rule.

KEY RECOMMENDATIONS

The government has suggested that there should still be two situations that would result in sole-support parents being cut off or denied social assistance.

First, sole-support parents would not be eligible for assistance if they live with another person who has a legal obligation to support the parent or his or her dependent children. The Committee believes that this is a fair and reasonable restriction but feels that there are good reasons to exempt sole-support parents living with their parents even if there is a legal support obligation.

The government also suggested that eligibility for social assistance should be denied sole-support parents who live with another person who provides economic support and accepts parental responsibility for the children even though there is no legal support obligation. The Committee does not believe that this second restriction is desirable. Applying this rule would probably require invasions of privacy similar to those that occurred under the spouse in the house rule. In addition, this rule would discourage the substitute parent from supporting the efforts of the sole-support parent to raise his or her children for fear that social assistance benefits might be cut off.

While the Committee does not agree with the second of the government's limitations, it does believe that some rules are necessary to determine the amount of the allowance for sole-support parents who are eligible for assistance and who share living arrangements. The major recommendations of the Committee are that:

- It is fair and reasonable to expect that someone living with a sole-support parent on assistance should pay his or her share of household expenses.

- The amount of social assistance provided to sole support parents should take into consideration the share toward household expenses contributed by others.

- Given that a precise estimate of household expenses could cause administrative problems, the amount paid for shelter should be the figure used to calculate shares of household expenses. As an alternative, an amount slightly higher than shelter costs could be used to account for other household expenses.

- These rules should apply to all households in which sole-support parents reside regardless of the nature of the relationship between the parent and other adults in the household. An exception should be made, however, in the case of disabled people sharing shelter costs with family or friends to avoid any possible reduction in benefits to the disabled that might result.

- ministry staff, clients and the public must be made fully aware of what these changes mean and why they were introduced.

CONCLUSION

The Committee has presented what it considers to be reasonable and workable proposals given the limitation of operating within the current system. During the discussion about alternatives to spouse in the house, a variety of other topics were raised which could not be dealt with in this report. Issues like the adequacy of benefits, the treatment of married compared to non-married couples and limitations of the two-tier system of social assistance have implications for the alternatives we have suggested. As a result, these proposals should be considered as interim recommendations subject to the broader discussion of social assistance which will be contained in the Committee's final report.

REPORT

OF THE

SOCIAL ASSISTANCE REVIEW COMMITTEE

ON THE

SPOUSE IN THE HOUSE RULE

January, 1987

TABLE OF CONTENTS

REPORT

OF THE

SOCIAL ASSISTANCE REVIEW COMMITTEE

ON THE

SPOUSE IN THE HOUSE REPORT

1. THE REQUEST BY THE ONTARIO GOVERNMENT TO THE SOCIAL ASSISTANCE REVIEW COMMITTEE

The Attorney General and the Minister of Community & Social Services recently announced the elimination by April 1, 1987 of the controversial spouse in the house rule for recipients of Family Benefits and General Welfare Assistance. Regulations have been put in place to apply until April that take into account recent court decisions clarifying and narrowing the existing rule.

The government has proposed that a sole-support parent remain eligible unless that parent lives with another person who:

1. has a legal obligation to support the parent or his or her dependent children; or

2. provides economic support for the parent or his or her dependent children and accepts parental responsibility for the children.

In addition, the government wants to address the issue of whether and how the assets and income of someone living with a sole-support parent should be taken into account when assessing that parent's need for social assistance. The government has asked the Social Assistance Review Committee to comment on the proposed new eligibility criteria and to suggest when, if ever, a recipient's needs should be seen as less because he or she lives with another person.

The purpose of this report is to meet that request.

2. PLACING THE TASK IN CONTEXT

(a) The Committee's Mandate

The Committee has a much broader mandate to examine the overall direction of social assistance in Ontario and to develop principles for reform of the system as a whole. We expect to complete this task by the Fall of 1987. The timelines set for our work on this narrower issue require us to propose solutions that operate within the present social assistance system.

We have developed proposals that we think can be implemented in the short run and that do address the specific questions asked of us by the government. However, it is important to stress that these are only partial answers and that real and lasting solutions to the broader issues raised by the spouse in the house rule must await the final report.

(b) **The Problems Associated with an "Interim" Solution**

The Committee strongly supports the government's decision to eliminate the spouse in the house rule. The move away from immediate ineligibility for a sole-support parent who begins living with another person represents a significant improvement in the present system.

However, we have found that consideration of any alternative to the rule is more difficult when answers to broader issues have not yet been found. For example, our "interim" solution would be easier to propose if accompanied by firm statements about what constitutes an adequate social assistance allowance for a sole-support parent. If the assets or income of another household member are to be taken into account in a manner that reduces a single mother's cheque, this might be quite justifiable from a policy perspective but still hard to support if one feels that her basic needs are not being adequately met in the first instance.

As another example, we are eager that any solution that we propose not create unacceptable differences in the resources available to married and unmarried couples. Once again, this difficulty would diminish if we had firm answers to the adequacy issue.

There are other issues that touch upon the topic being addressed in this report. The two-tier system (i.e., General Welfare Assistance and Family Benefits) creates special problems because the rules regarding such things as employment expectations are different at each level. On a broader scale, our long-term solution should address the appropriateness of the present categorical approach to eligibility.

The point being emphasized again is that the answers we propose here must of necessity, work within the present legislative framework. Not only does this mean we cannot address these other related issues at this time, but it also means we must find answers that work within a system that uses marital status to create categories of recipients and subtracts income on a dollar-for-dollar basis from budgeted levels of need.

We have attempted to deal with these limitations by choosing options that are as generous as possible and that do not disadvantage recipients while longer-term answers are found. In some cases, consistency has been sacrificed to this objective.

Any answer we propose will be more difficult to implement than the old rule, which was unfair but relatively straightforward. For staff and recipients alike, this will mean learning new rules and procedures that are more complex and yet only intended to be temporary, pending implementation of our final report.

At a minimum, this suggests that extensive training and support need to be provided to staff as these temporary solutions are put into place. It is also important that recipients not be later disadvantaged by the decisions that they may have been encouraged to make during this confusing, uncertain period for the entire system.

Finally, we would note that the Committee has been advised that this issue is addressed quite differently in native communities across the Province. We express no opinion on this other than to state that we feel it might be inappropriate to introduce new rules for native recipients at a time when the Committee is considering whether the administration of native welfare should be more autonomous.

3. CRITERIA FOR THE COMMITTEE'S DECISIONS

The Committee has identified a number of criteria that ideally any new approach should meet. These include:

(a) It should not authorize broad and highly discretionary invasions of privacy.

(b) It should be precise and capable of implementation in a fair manner.

(c) It should not discriminate on such grounds as sex, marital status and sexual orientation.

(d) It should be a solution that realistically measures the reduction, if any, in need that comes from the addition of a new household member.

(e) The new approach should not be one that imposes an unfair financial penalty on children. It also should not be a solution that produces unequal treatment of equally needy children.

(f) It should not act as a disincentive to the formation of new families.

(g) The new rule should be one that is administratively simple and capable of being enforced.

(h) Any proposed solution should be one that is financially realistic. We are mindful of the fact that our final report will undoubtedly include proposals that will have a financial impact. In light of this, anything we recommend now should involve the best use of resources for those who are most in need.

We have not been able to find an answer that meets all of these requirements. Some of the reasons for this have already been noted. However we do feel that the recommendations that follow come as close as we can to meeting these criteria within the confines of the present system.

4. ELIGIBILITY CRITERIA

(a) Legal Support Obligations

The Committee accepts the government's proposal to disentitle sole-support parents living with persons who owe an obligation of support to them or to their children.

At the same time we note that support may be given in the absence of legal obligations, while those with legal obligations do not always meet their responsibilities. We also have some concern about the Family Law Act rule that imposes legal obligations of support on substitute parents, because this may discourage such persons from taking on child care responsibilities or forming close relationships with the children of sole-support parents. We are reassured by the fact that the rule has been interpreted strictly by the Courts and will only apply where there is strong evidence that someone has a "settled intention" to treat the child or children as his or her own.

There is also the difficulty that the proposed new rules do not require that a legal obligation of support be owed to both the parent and the child. A child may be disentitled on the basis of his or her parent's " spousal" relationship and the parent may be disentitled on the basis of a relationship between the child and another adult.

Despite these problems, the Committee supports this eligibility criterion as the best that can be devised, so long as one maintains a categorical program for "single" parents raising children on their own. In this context, if a sole-support mother resides with someone who has a legal obligation to support her children, one cannot reasonably describe her as raising her children on her own. To include such families would be inconsistent with the basic purposes of the single parent category as presently established.

It will be difficult to prove that there exists a legal obligation to support the sole-support parent. A legal obligation of support will arise between unmarried "spouses" only after they have cohabited for three years (unless the spouses together become the parents of a child). Cohabitation involves not only living in the same residence but also living together in a "conjugal"

relationship. The government cannot investigate such matters without invading family privacy. Unlike the usual family law case (where one party is arguing that a support obligation exists and the other party is denying it), here it will be in the interests of both parties to deny the "spousal" nature of their relationship.

In these circumstances, the best and most realistic answer may be to place the onus upon the Ministry or municipality to demonstrate that the sole-support parent has been residing with someone of the opposite sex for a three-year period. Then the onus would be placed on the recipient to show that this is other than a "spousal" relationship. Such an approach might create difficulties on both sides in individual cases, but we think this is probably the only answer if one hopes to avoid the invasions of privacy that the old rule invited.

The existence of a legal obligation to support the children will be no easier and probably much harder to prove. It will be very difficult for the Ministry or a municipality to determine whether the "settled intention" test has been met. It will be necessary to rely upon the information provided by the parent and the substitute parent and, in some cases, upon the presumptions of parentage set out in the Children's Law Reform Act.

The government has also proposed that single parents be ineligible where a household resident provides support and child care assistance. These situations could arise where there is no support obligation.

The Committee believes that the government should not implement this criterion. It is even more vague than the settled intention test. In most cases, where application of this criterion is thought to be appropriate, the settled intention rule would probably apply anyway. Furthermore, it seems unenforceable, at least without the kinds of investigations that raised concerns about the spouse in the house rule. Most of all, we think that it would discourage a substitute parent in the home from being even modestly supportive of the sole-support parent's efforts to raise his or her children, because of a fear that this would render that parent ineligible for social assistance.

(b) **Legal Obligations that Should not Create Ineligibility**

The new criteria would result in ineligibility for some sole-support parents who are eligible under the present rules. For example, a sole-support mother now remains eligible if she lives at home with her parents. However, if she is under 18, her parents probably are obliged to support her and she would therefore become ineligible under the new rules.

The Committee recommends that sole-support parents living at home with their parents remain eligible for benefits, notwithstanding the existence of any support obligation. The Committee does not think it is desirable to discourage such recipients from living with their parents, who may play a substantial supportive role. A sole-support parent should not have to leave his or her parents' home in order to qualify for benefits. Such recipients have always been regarded as "emancipated" and as having an independent status as part of a new family. The Committee thinks it appropriate to continue to characterize them in this way.

5. DETERMINING FINANCIAL NEED

(a) Introduction

Having dealt with the issue of eligibility, there remains the question of the level of benefit to be provided to the sole-support parent who lives with someone else in situations where no legal support obligation exists. In other words, the question is whether and how the assets and income of this other person should be taken into account in assessing the parent's financial need.

Our conclusion is that the guiding principle should be that:

WHERE A HOUSEHOLD RESIDENT HAS RESOURCES BUT DOES NOT HAVE A SUPPORT OBLIGATION EITHER TO A SOLE-SUPPORT PARENT OR THE CHILDREN, HE OR SHE SHOULD BE EXPECTED TO PAY HIS OR HER OWN SHARE OF THE HOUSEHOLD EXPENSES. IN OTHER WORDS, IN THE DETERMINATION OF SOCIAL ASSISTANCE BENEFITS, ONE SHOULD ASSUME THAT THE HOUSEHOLD RESIDENT IS PAYING HIS OR HER OWN WAY WITHIN THE HOUSEHOLD.

Ideally, this becomes an approach that can be applied to all households with sole-support parents in them; not just those in which the parties have a "spousal" or some other personal relationship to one another. The changes made here become part of a general move toward a "household" approach to the provision of social assistance.

(b) Defining the Household

The easiest and most justifiable way of identifying the household is to treat all persons who ordinarily reside together as members of the same household. This definition would exclude people who reside in the same building but live in separate dwelling units.

We considered an alternative approach, which would be to define households in terms of people who "cohabit" together. As already noted, however, "cohabit" means residing together in a conjugal relationship. Identifying a household in this way would lead to all the same problems that existed with the old spouse in the house rule. It would make the nature of the relationship between the recipient and other persons a key factor in determining need.

(c) **Actual Contributions to the Household**

Under the present income rules, all direct financial contributions to a recipient are included as income in determining a recipients allowance. The Committee accepts that this should apply here as well, thus reducing the recipient's allowance to the extent that funds are provided to him or her by a fellow resident. We would note though that this is another area where later reform of the overall system might require substantial change in the way income is treated when deciding on the benefit level.

(d) **Deeming Contributions**

It is, we think, acceptable to calculate the allowance on the assumption that those residents who are able to contribute will in fact do so. There are some situations where the other resident refuses to contribute. In doing so, he or she is asking to be partially supported by social assistance payments meant for the sole-support parent and the children. Stated very simply, the allowance is not intended for the purpose of supporting nonrecipients who are capable of supporting themselves.

We have considered the fact that this approach can create difficulties for those recipients who are unable to get the other household member to make the expected contribution. This problem is compounded in those situations where, because of abuse or other forms of control, the recipient is not able to escape the relationship. The parents' and the children's difficulties would be made worse by a reduction in the allowance with no hope of recovering the needed funds from the other member of the household.

While these situations cause us concern, we think that this does not justify excusing the other resident from paying his or her share of the expenses. Rather the answer is to expand further those programs for abused spouses that seek to provide them with the knowledge and means to escape such negative relationships.

For those household residents who do not have any income or who only have enough to pay for their own personal requirements (outside of common household expenses), the Committee recommends that the allowance be calculated without any expected

contribution from this other resident. However, this should be regarded as an exceptional situation as a resident without resources should be eligible for general welfare assistance in his or her own right and thus should be able to make some contribution toward the common household expenses.

(e) **Problems of Proof**

The government cannot require people to disclose information about their income simply because they happen to live with someone who is receiving social assistance. Asking the recipient to show that the other household resident is unable to pay his or her share may also pose problems in individual cases. The recipient could be placed in the position of either losing some benefits or establishing a separate household; as we have pointed out, this may not be an easy choice to make.

Despite this, we feel the onus should be placed upon the recipient to demonstrate when a contribution should not be expected from the other resident. The other alternative of requiring third parties to disclose their finances seems even worse. Shifting the onus of proof seems preferable to eliminating the exemption. Finally, this is once again a situation where it seems better to assist a recipient to escape the relationship rather than allowing the other resident to take funds that are desperately needed by the recipient and the children.

(f) **Assets**

Rules that attempt to take into account the assets of the other household members would be too difficult to administer. The Committee does not recommend including available assets in the calculation of the deemed contribution.

(g) **Calculating the Deemed Contribution**

There are many ways in which household members may make a contribution to common household costs or may derive a benefit from living in a household with the recipient. Although the Committee is aware that shared household costs may involve a variety of necessities such as food, shelter, clothing and personal requirements, we also feel that the deemed contribution must be easy to understand and to calculate. Therefore, the Committee recommends that the deemed contribution relate only to the shelter costs of the household. Unlike other common expenses, shelter costs are easy to assess and represent the most significant portion of the household expenses.

Alternatively a fixed amount, somewhat higher than the contribution to shelter, might be chosen. The essential requirement is that there be no need to do a detailed evaluation in each case.

The Committee recommends that all adult members of the household be deemed to contribute equally to these shelter costs. Where there are one or more dependent children in the household, those children should be assessed for one adult share, thereby reducing the resident's share to 1/3. This is a somewhat arbitrary but easily calculated approach.

(h) **Calculating the Effect on the Recipient's Allowance**

There are two possible ways of calculating the deemed contribution to shelter costs made by other household members:

(1) The first is to treat the other household member as paying one-third the rent and then to pay the recipient the benefit he or she is entitled to if paying only his or her share of the rent (the budget method).

(2) The second is to treat the other household member as paying one-third of the rent and then to deduct this amount from the recipient's allowance (the income approach).

One of the best ways to understand the difference between the "budget" and "income" approaches is to note that the two methods would be identical if the government reimbursed shelter costs at their actual level. In other words, the only reason that the "income" method is different from the "budget" method is because the government only partially reimburses shelter costs.

If a single mother with two children moves from her own apartment where she was paying $500.00 rent into shared accommodation at $600.00, it makes no sense to deduct $200.00 (1/3 of the rent) from her allowance. She still has to pay her $400.00 share of the rent. however, she has lowered her shelter expenses from $500.00 to $400.00, and this should be taken into account in determining her need.

A second problem with treating the deemed contribution as income is that it would discourage recipients from making the best possible use of their very limited resources. It would be virtually impossible for a recipient to take advantage of better accommodation which may be available by sharing rent with someone else. A recipient living in very poor accommodation which costs him or her $300.00 a month could not move into better, shared accommodation at $600.00 without losing $200.00 to $300.00 from the allowance. We think this is not an acceptable solution.

Accordingly, we recommend that allowances be calculated according to the budget approach. In other words, the shelter portion of the allowance should be computed after the shelter costs have been apportioned between the two residents.

The only apparent problem with this approach arises in those situations where the recipient resides in high-cost shelter that is obviously well beyond the single parent's means. Although such situations would be extremely rare if in fact they occur at all, the recipient would receive the highest possible allowance as prescribed in the regulations. The perception would be that the state is helping to finance living arrangements that seem inappropriate, at least in relation to those faced by persons of modest means, whether or not they are receiving social assistance.

Accordingly, the Committee recommends that the government consider the possibility of a ceiling on shelter costs, above which an income deduction would be made. For example, the government may wish to introduce an income deduction when the recipient's share of shelter costs exceed the total amount of his or her income.

(i) **Application of New Rules**

Our recommended approach ideally should apply to all cases in which a recipient takes up residence with another person. It should not matter whether the household consists of two persons of the opposite sex in a conjugal relationship, two persons of the same sex in a similar arrangement, two recipients who have come together to share expenses, two siblings who reside in the same apartment, or a disabled adult who resides in the home of his parents.

However, the Committee is concerned about any reductions in existing benefits while the whole system is under review. In particular, the Committee has considered the effect of this new rule on disabled persons who are living with parents, relatives or friends with both of them sharing the shelter costs. It does not seem appropriate to reduce benefits in such a situation, where others are fulfilling an important and demanding supportive role with a disabled person. The Committee therefore recommends against applying the rule in this situation. It leaves to the government the decision on whether other exemptions should be introduced to preserve all existing benefits until our broader review is completed.

(j) **Comparisons with Those Deemed Ineligible**

We have already noted that the end of the spouse in the house rule and our proposal to limit the expected contribution from those with whom one resides, raise both real and perceived difficulties when these changes are contrasted with the position of married couples, both those receiving social assistance and those living on very low incomes. While this has concerned us, we are reassured by the fact that one of the major issues we will be addressing over the next few months relates to the

adequacy of assistance levels for all recipients. As well, we will be addressing the problems faced by the so-called "working poor". This may mean that many of the perceived difficulties will be short lived. However, we also accept that some differences are inevitable and justifiable in a legal and social system that does not impose support obligations upon persons who live together, until sometime after the date they first take up residence with one another.

(k) **Effect on Existing Legislation**

The Committee assumes that the new rules will be fully integrated with existing regulations and guidelines. Of special note are those rules that result in the reduction of allowances on the basis of spousal and nonspousal relationships which a household resident may have with a recipient.

The immediate problem in this regard is that, where the recommended rules and the existing rules are applied in tandem, the recipient could be placed in "double jeopardy" resulting in two deductions rather than one. Existing rules that have the potential to cause such double reductions are described more fully in the appendix. We have noted other related problems that need to be addressed.

6. SIXTY TO SIXTY-FOUR YEAR OLD MEN AND WOMEN

Under the proposed changes, a 60 to 64 year old woman will no longer be categorically ineligible for benefits when a resident of the opposite sex and same age range is residing in her home. We support this change.

While it is not strictly a matter that we have been asked to address at this time, we are concerned that 60-64 year old men continue to be categorically ineligible for family benefits. This seems unfair, and contrary to the Charter of Rights. We would recommend that the government extend eligibility to 60-64 year old men in order to remedy this obviously discriminatory situation.

7. INTRODUCING THE "INTERIM" CHANGES

As indicated earlier, we think that it is extremely important to introduce these changes in a fashion that ensures that staff are fully aware of what they mean and why they have been introduced. We have been struck by how little is known about why the spouse in the house rule was repealed. We also encountered much confusion about how individual cases should now be handled. This confusion extends to Ministry and municipal staff as well as recipients.

The Committee sees these changes as relatively modest in relation to its overall task. However, they do represent a major departure from what has long been seen to be a cornerstone of the social assistance program. The change is a welcome one, but those affected by it and those who will administer the new rules must be helped to understand why there was a need for change, as well as the rationale and intent of the new approach that we are recommending.

EFFECT OF THE SOCIAL ASSISTANCE REVIEW PROPOSAL ON EXISTING LEGISLATION

The Committee assumes that the new rules will be fully integrated with existing regulations and guidelines.

However, where the recommended rules and the existing rules are applied in tandem, the recipient could be placed in "double jeopardy" resulting in two deductions rather than one. Existing rules which have the potential to cause such double reductions are described below. In addition, other program areas where a family or spousal relationships could result in allowance reductions are also noted.

1. POTENTIAL DOUBLE REDUCTION SITUATIONS IN FBA AND GWA

(a) Shelter Subsidy Considerations

Under the shelter subsidy regulations, a shelter subsidy may be reduced on the basis of a family relationship that a recipient has with the person providing the accommodation. In law, the Director or the Administrator has the power to determine the rent or shelter costs of the recipient. In practice then, the only way that the Director or the Administrator takes a family relationship into account is to determine the rent to be lower than the recipient may actually be paying.

It would appear that the regulation relating to family relationships should be revoked and the rules set out in this paper be applied.

(b) GWA: The 15% reduction for Shared Accommodation

Under the General Assistance, the welfare administrator has the option of reducing the budgetary requirements of anyone who lives in shared accommodation by 15% before taking income into account in determining the net level of benefits. This non-spousal criterion relates to situations where both "sharers" are recipients or where one is a non-recipient.

The rationale for this regulation relates to the potential economies of scale achievable by two individuals or families living together. In other words, their needs are lower, given the fact of sharing. In light of the recommended criteria, this regulation should be revoked.

(c) Boarder, Roomer, and Rental Charges

Under both FBA and GWA, there are roomer, boarder, and rental charges which, in the main, do not relate to actual level of income realized by a recipient from these sources. For example, $40.00 per month in the form of a deduction of this amount from their allowance.

In the context of the proposed framework for implementation, it is especially important that persons not be seen as sharing rent and as boarders at the same time. Otherwise, a double reduction would result.

(d) **Type of Accommodation: the Boarding Range Under GWA and FBA**

A special table of benefits is paid to recipients under FBA and GWA if they receive their board and lodging from the same source. Some recipients receive less than the maximum allowable based on their relationship with adults in the home. Typically, a son or daughter of the person providing the room and board will receive the minimum of the range based on a regulation which allows the Director or Administrator to take into account any other circumstances which he or she deems to be relevant.

Although practices across the Province vary, in most circumstances where a recipient receives board and lodging from a relative, the assumption is made that the recipient pays less than what might be regarded as the "going rate" for the accommodation food. As a result, the recipient is likely to receive less than the maximum boarding rate.

The problem with this practice is not only that it varies depending on local rules but that any new non-spousal criteria would aggregate with the above-mentioned practice in a manner which would cause a "double jeopardy" situation.

Under household criteria, it does not appear to be unreasonable that lower rates be paid on the basis that a real contribution is provided to the recipient. However, always providing the minimum boarder rate would appear to be unacceptable as it:

- only applies to boarders and not other persons in other accommodation situations
- is not based on the actual level of contribution in any way, and
- requires lower rates for boarders on the basis of vague discretionary authority.

(e) **Purpose of Providing Accommodation: Profit vs. Non-profit Boarding Rates**

One of the most important existing non-spousal criteria is the non-profit boarding rates under FBA and GWA. Lower benefits are paid to clients if they are receiving accommodation and board from a friend or relative.

Although a determination should be made as to whether the recipient is actually paying a "market" boarding rate, it is a general practice to provide lower rates on the basis of the relationship alone.

The difference in the levels received by clients can be significant. For example, a single GWA employable recipient can receive a maximum of $266 at the non-profit rate while the corresponding profit rate is $343. In addition, when this parameter is combined with the boarding range parameter, the difference in rates can range from $188 to $343.

As one of the principles of the new Government policy is that a relationship is not a good measure of need, the determination of profit vs. non-profit rates should always consider the amount the boarder pays, not his or her relationship to a provider.

2. OTHER AREAS WHERE RELATIONSHIP RESULT IN ALLOWANCE REDUCTIONS

(a) Spousal Income: Section 13(1)(b)(FBA)

By far the most important of the existing spousal criteria is Section 13(1)(b) of the Family Benefits regulations which includes the income of a spouse in the same manner as if it had been paid to the recipient.

Under the household-based rules, it would not be possible to retain s.13(1)(b) except in those instances where a support obligation exists.

(b) Additional Benefits for Spouses: Where the Claim to a Spousal Relationship is Advantageous to the Spouse of Recipient

Under FBA and GWA, allowances are higher for couples than for singles. Accordingly, where a single recipient indicates that a spouse has moved into the household, budgetary requirements are adjusted and the income of the spouse is taken into account.

A recipient can be better off if he or she declares him or herself to be a single person if his/her spouse has income. Conversely, the recipient is better off to declare him or herself as having a spouse if the spouse has no income.

Under the Committee's proposal, a person who lives with a single person may not be viewed as a spouse by the Ministry until three years have passed. In contrast, a recipient will continued to be able to declare another person as a spouse (if this proves advantageous) on the basis of an immediate self-declaration.

As some recipients might wish to define their relationships in terms of their relative financial advantage, the Ministry must determine whether this practice is appropriate.

(c) **Involuntary Separations**

A set of spousal criteria applies in respect of the treatment of self-declared spouses who separate because one of them has to go into an institution. The Ministry has an ambivalent set of policies on the subject, largely depending on the type of institution the spouse enters or the anticipated length of stay. In some instances, the recipient and spouse are able to treat themselves as single individuals, presumably based on the fact that they do not reside together. In other instances, the relationship is taken to be paramount and the spouses are treated as a couple. Although most clients are better off being treated as individuals, this is not always the case.

These policies should be reviewed and clarified in light of the proposals made in the report.

CONCLUSION

The foregoing inventory of household eligibility and income rules is by no means exhaustive. However, it does demonstrate the array of methods which can be used to lower benefit levels on the basis of the relationships which a recipient has with another (usually adult) member of their household.

It is not the purpose of this section (or the report as a whole) to rationalize the existing array of criteria with the recommended framework deeming household income. However, it is imperative that the Ministry recognize and rationalize existing with new criteria in such a manner that recipients are not placed in double jeopardy.